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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re: Sheila Miranda

Debtor.

Case No. 20-01027

**MOTION AND NOTICE OF MOTION
TO DETERMINE 1) VALUE OF
COLLATERAL AND 2) SECURED
STATUS OF THE CLAIM OF
LENDMARK FINANCIAL SERVICES
WITH REGARD TO A 2001
CHEVROLET BLAZER**

**TO THE HONORABLE WHITMAN HOLT, THE OFFICE OF THE UNITED
STATES TRUSTEE, THE CHAPTER 13 TRUSTEE, AND LENDMARK FINANCIAL
SERVICES (“LENDMARK”):**

Sheila Miranda, (the “Debtor”) in the above referenced case now move the Court,
pursuant to Bankruptcy Code § 506 (a) and (d), and Federal Rule of Bankruptcy Procedure 3012,
for an order determining the secured status of the claim of Lendmark with regard to the Debtor’s
2001 Chevrolet Blazer (the “Property”).

In support of this Motion, the Debtor alleges as follows:

1. Pursuant to proof of claim No. 6 (“Claim No. 6”) filed in the Debtor’s prior
bankruptcy case, Case No. 19-02217, the Debtor purchased the Property on or about December
31, 2016. The documentation for Claim No. 6 also indicates that Lendmark perfected its security
interest in the Property on March 4, 2017.

In re Miranda; Case No. 20-01027
Motion to Value and Avoid Liens per 506(d)

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1 2. Apparently, on or about March 3, 2018 Lendmark then refinanced the Property,
2 loaning the Debtor approximately \$4,620.37, which was to be repaid over 60 months with
3 interest accruing on the loan at 24.98%.

4 3. Claim No. 6 admits that, at the time of the prior filing, Lendmark was an under-
5 secured creditor and its loan was not entitled to protection from 910-day rule against strip down
6 of a purchase money security interest under the “dangling paragraph” of Code § 1325(a).

7 4. The balance owed to Lendmark as disclosed in the Debtor’s current schedules is
8 \$4,908.09.

9 5. A Kelly Blue Book (“KBB”) report run on or about the date of the filing of the
10 case determined that the current private party value for the Property in “fair” condition as of the
11 would be \$1,709.00.

12 6. A KBB valuation run as of June 18, 2020, determined the value as of June 18,
13 2020 to be \$1,587.00. A true and correct copy of the KBB valuation is attached hereto as
14 Exhibit “1” and is incorporated herein by reference.

15 7. The Debtor has valued the Property in her schedules as having a fair market value
16 of \$1,709.00.

17 8. The Debtor is requesting that the Court find that the current fair value of the
18 Property is \$1,709.00, enter an order determining Lendmark has a secured claim in the amount of
19 \$1,709.00, that any amount of the Lendmark lien in excess of \$1,709.00 is void pursuant to
20 Bankruptcy Code § 506(d), and claim in excess of \$1,709.00 shall be treated in this case as an
21 unsecured claim only.

22 WHEREFORE, the Debtor requests that the Court enter an order granting the following
23 relief:

24 1. Determining the value of the Property being \$1,709.00 as of the Petition Date and
25 for purposes of the Plan;

2. ordering that the lien of Lenmark in excess of \$1,709.00 is voided pursuant to Code § 506(d);

3. ordering that any filed claim of Lendmark in excess of \$1,709.00 shall be treated as unsecured claims for purposes of the Debtor's plan; and

4. for further relief as the Court may deem just and equitable.

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST FILE WITH THE CLERK OF THE BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF WASHINGTON LOCATED AT PO BOX 2164, SPOKANE, WASHINGTON, 99210-2164 AND SERVE ON THE MOVING PARTY A WRITTEN OBJECTION NO LATER THAN TWENTY-FOUR (24) AFTER THE MAILING DATE OF THIS NOTICE SET FORTH BELOW. A STATEMENT OF THE GROUNDS FOR THE OBJECTION MUST BE INCLUDED. FAILURE TO FILE AN OBJECTION TO THE MOTION WITHIN THE SPECIFIED TIME MAY RESULT IN THE COURT ENTERING AN ORDER GRANTING THE MOTION WITHOUT FURTHER NOTICE OR HEARING. FAILURE TO STATE A GROUNDS FOR AN OBJECTION MAY RESULT IN THE COURT STRIKING YOUR OBJECTION.

DATED this 19th day of June 2020.

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/S/METINER G. KIMEL

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